



Case 3:98-cv-00009-TMB

U.S. ARMY ENGINEER DISTRICT, ALASKA
ANCHORAGE FIELD OFFICE
P.O. BOX 298
ANCHORAGE, ALASKA 99506-0298

Filed 05/25/2006 Page 1 of 4

REPLY TO
ATTENTION OF:

August 21, 1997

Quality Assurance Branch - Construction

RRO/38

SUBJECT: Letter From Northern Stevedoring & Handling Corporation,
DACW85-96-C-0020, Homer Spit Repair and Extension, Homer, Alaska

Nugget Construction, Incorporated
8726 Corbin Drive
Anchorage, Alaska 99507-3411

Gentlemen:

Attached is a letter we received from Northern Stevedoring & Handling Corporation regarding work that they have conducted for the above project which they have not received payment. Northern Stevedoring claims that they have not been paid for loading five barges in Seward.

As of Pay Estimate #3, which was received on June 20, 1997, and paid on July 1, 1997, the Government has paid for 24,486 c.y. of rock in Homer. Additionally, under Pay Estimate #3, the Government has paid for transportation costs from Seward to Homer for 28,441 c.y. of rock.

Under Pay Estimate #4, which was received on August 6, 1997, you requested payment for an additional 14,844 c.y. of armor, toe, and filter stone in Homer, included the cost for transportation.

We request an immediate explanation of why Northern Stevedoring has not been paid for work that has been paid by the Government.

We remind you that under Contract Clause I.55, Payments Under Fixed-Price Construction Contracts, you are not to request for progress payments that which you intend to withhold from a subcontractor or supplier.

Please direct any questions to the Project Engineer,
Mr. David Scott, at (907) 384-7442.

Sincerely,

Thomas A. Johnson, P.E.
Administrative Contracting Officer

Attachment

CC: Northern Stevedoring & Handling Corporation

~~EXHIBIT 14~~
Pg. 1 of 3

Date 10-29-98 Est. 9
Witness Doug Young
SUZAN KAY OLSON
R&R Court Reporters, Inc.
810 N Street
Anchorage, Alaska
(807) 277-0572

Exhibit 2
Page 1 of 4

August 4, 1997

Army Corps of Engineers
Fort Richardson Residence Office
Box 898
Anchorage, Alaska 99506-0898

ATTN: Mr. Dave Scott
Mr. Doug Wood

REF: DACWRS-96-C-0020, Homer Spit Upgrade Rip Rap

Northern Stevedoring has been working for Spencer Rock Products, Inc. From May 1 to June 26, 1997. In that time frame Northern loaded five barges of rock for the Homer Spit. Northern invoices all customers on a weekly basis. No payment has been received from Spencer Rock for loading the barges. Mr. Bob LaPore, President of Spencer Rock, has stated he would pay Northern after he receives payment from Nugget Construction.

Northern and Spencer Rock began phone conversations about loading the Homer Spit rock in August of 1996. Northern was to bill Spencer for the loading based on labor and equipment used. A rate sheet is attached for your information.

L.D. Randolph P.E., works for Nugget Construction, Inc. and is the project manager for the Homer Spit upgrade. On April 30, 1997 Randy Randolph called Northern Stevedoring and said his barge would be in Seward on May 2 to unload equipment. Randy said he wanted Northern to start loading rock on May 3, 1997. Northern expressed concern over the possible damage to the deck of the barge during the loading of the rock. Randy responded back with the attached letter, stating the barge was fitted with a temporary concrete wear deck.

Spencer delivered the rock to the Alaska Railroad Dock. Northern Stevedoring loaded the rock to the barge chartered by Nugget Construction. Randy Randolph was making all the decisions on the loading of the barges; what type of rock to load, the quantity to load, arrival and departure of the barges.

The following invoices reflect the charges for the five barges Northern loaded.

- | | |
|--------------------------------|--------------------|
| 1) Invoice 105 Worked 5/1-5/97 | Amount \$21,369.46 |
| 2) Invoice 117 Worked 13 & 14 | Amount \$11,579.22 |
| Invoice 119 Worked 14 & 15 | Amount \$20,183.02 |
| 3) Invoice 132 Worked 5/19&29 | Amount \$14,718.74 |
| Invoice 135 Worked 5/21&22 | Amount \$17,043.50 |

~~EXHIBIT 17~~
~~Pg. 3 of 3~~

Exhibit 2
Page 2 of 4

4) Invoice 189 Worked 6/9&10	Amount \$15,774.24
Invoice 192 Worked 6/11	Amount \$ 4,193.78
5) Invoice 233 Worked 6/25 & 26	Amount \$19,863.02
Total Amount Due: \$124,724.98	

Northern Stevedoring did agree to direct the invoices for loading the rock to the ZB286 Nugget Construction barge, for the Army Corps of Engineers Homer Spit upgrade to Spencer Rock. The work requested has been completed in good faith and invoices have been sent. No payment has been received. The first invoice is 87 days over due. We believe this to be a direct violation of the 14 Day Prompt Payment act, which is a reflection on Nugget Construction and the Army Corps of Engineers. Your assistance in resolving this issue would be greatly appreciated. Please call if you have any questions. 907-224-5477.

Regards,

Jack Goodwill, Vice President
Northern Stevedoring & Ildig

(12)Encl

~~EXHIBIT 14~~
~~Pg. 3 of 3~~

Exhibit 2
Page 3 of 4

REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
RICHARDSON RESIDENT OFFICE
P.O. BOX 898
ANCHORAGE, ALASKA 99508-0898

August 26, 1997

RRO/40

Quality Assurance Branch - Construction

SUBJECT: Spencer Quarry, Contract DACW85-96-C-0020, Homer Spit
 Repair & Extension, Homer, Alaska.

Nugget Construction, Incorporated
 Attn: Mr. Randolph
 8726 Corbin Drive
 Anchorage, Alaska 99507-3411

Gentlemen:

We acknowledge receipt of Serial Letter 611-19, dated August 6, 1997, and Serial Letter 611-21, dated August 11, 1997. We do not necessarily agree that Spencer Rock Products is only a "vendor" for Miller Act purposes.

Based on the supporting costs that you outlined in Serial Letter 611-21, it appears that Nugget Construction has assumed full responsibility for operations at Spencer Quarry for the subject project. Therefore, as primary operator at Spencer Quarry, we believe Nugget Construction is responsible for prompt payment to suppliers and subcontractors who contracted with Spencer Rock Products on this project.

We request that you clarify what support and project management services Nugget Construction provided to Spencer Rock Products to account for the support cost that you have shown in Serial Letter 611-21. Further, please provide information showing what work, if any, has been performed by Spencer Rock Products under its subcontract with Nugget Construction.

Please direct any questions you have in this matter to the Project Engineer, Mr. David Scott, at (907) 384-7442.

Sincerely,

Thomas A. Johnson
 Thomas A. Johnson, P.E.
 Administrative Contracting
 Officer

Cc: United States Fidelity
 and Guarantee Co.
 Attn: Bill Wells
 4220 B Street
 Anchorage, AK 99503